

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY
AND
ENERGY FACILITIES SITING BOARD

)	
Notice of Inquiry and Rulemaking into issues)	
pertinent to forecast and supply planning by)	D.T.E. 98-84/
electric companies)	EFSB 98-5
)	

INITIAL COMMENTS OF SITHE NEW ENGLAND HOLDINGS, LLC

I. INTRODUCTION

Sithe New England Holdings, LLC ("Sithe"), on behalf of itself and its generation-owning subsidiaries,

¹ files these comments on issues pertaining to forecast and supply planning by electric companies in the Commonwealth in response to the Notices of Inquiry ("NOIs") issued by the Department of Telecommunications and Energy ("DTE" or "Department") on August 10, 1998 and by the Energy Facilities Siting Board ("EFSB" or "Siting Board") on August 14, 1998. The NOIs seek comments as to whether (1) 220 C.M.R. §§ 10.00 et seq. should be rescinded; (2) electric companies should be exempt from any or all of the provisions of G.L. c. 164, § 69I; and (3) if so, consistent with G.L. c. 164, § 69I, what alternative process is "in the public interest."

Sithe is a subsidiary of Sithe Energies, Inc., which has developed, acquired and today

¹ Sithe Mystic LLC, Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, and Sithe West Medway LLC, are the wholly-owned subsidiaries of Sithe New England that own the generation assets purchased from Boston Edison Company.

operates 23 non-utility generating facilities in the United States and internationally. In May 1998, Sithe acquired, and now operates, five Boston Edison Company generating stations in Massachusetts. Sithe plans to develop and operate in excess of 2800 MW of new generating capacity at existing generating sites at Mystic Station in Everett, Fore River Station in Weymouth, and West Medway Station in West Medway.

Sithe has started the process of obtaining permits and approvals for its proposed power generating facilities. Among other matters, it has requested system impact studies from the Independent System Operator **B** New England ("ISO**B**NE") with respect to transmission-related impacts associated with its generating facility proposals.

Sithe has a strong interest in ensuring that adequate transmission capacity is available in New England so that the region's electric generation market may operate efficiently and reliably and the needs of Massachusetts consumers can be served as load grows and changes in the generation mix occur. Therefore, Sithe has a significant interest in the issues raised by the DTE and EFSB NOIs.

II. SUMMARY OF COMMENTS

The transmission planning issues raised in the DTE/EFSB's (hereinafter "the agencies") NOIs are extremely important and complicated **B** indeed, more complex than envisioned in the questions set forth in the NOIs. As discussed below, Sithe cannot meaningfully comment on the issues raised by the agencies without first reviewing other critical information which should be collected in the course of this proceeding.

Accordingly, Sithe respectfully requests that the agencies modify the procedural schedule for these NOIs to accommodate further information gathering. Specifically, Sithe suggests that

the agencies require electric companies (and other market participants) to provide information regarding the roles of ISO-NE, transmission companies and load-serving entities with respect to transmission forecasting and planning. After reviewing this information, interested parties can respond meaningfully to the questions posed in the NOIs. This approach will ensure that the agencies obtain critical information and that all parties have the opportunity to submit informed comments. Further, it will allow for the development of a more comprehensive record upon which the agencies may evaluate whether "an alternative process is in the public interest." See G.L. c. 164, § 69I.

III. THE NOIs RAISE COMPLEX AND NOVEL QUESTIONS

A. The NOIs raise issues of first impression concerning transmission planning in a competitive environment

Sithe supports the efforts of the DTE and the EFSB to institute regulatory requirements appropriate to a competitive electric generating market. With these NOIs, the agencies are properly focusing on instituting an alternative process which (1) is consistent with the agencies' modified roles in the restructured electric industry, particularly with respect to understanding transmission constraints and the need for new transmission; and (2) provides sufficient information to allow the DTE to develop an annual report on reliability and diversity for the Legislature.

It is important for the agencies to focus on transmission-related issues since non-discriminatory access to efficient, adequate transmission service is essential to developing a competitive generation market. But, adequate transmission service is not possible without efficient transmission planning. In addition to requiring non-discriminatory access to

transmission, which is under the jurisdiction of the Federal Energy Regulatory Commission ("FERC"), market participants must have adequate information as to (1) how changes in load or emerging transmission congestion might affect efficiency in Massachusetts' generation markets, and (2) geographic locations where the addition or retirement of generation capacity on the grid might reduce or exacerbate congestion.

While the Department's and Siting Board's jurisdiction over transmission is only part of a larger federal/state jurisdictional scheme in which the FERC has considerable authority, the agencies must clearly articulate their roles consistent with state and federal statutory requirements.

A fully developed record in this proceeding can assist the agencies in shaping their roles and regulatory requirements in ways that support the development of an efficient generation market. In order for such a market to emerge, both the agencies and market participants must analyze and solve a broad spectrum of novel transmission issues. To solve these transmission issues, the agencies must consider the traditional and changing roles of electric companies in Massachusetts, the roles of new institutions, such as the ISO-BNE, and the considerable authority of the FERC over matters relating to transmission in interstate commerce.

B. The issues are complex

The issues raised by the agencies' NOIs are more complicated than the questions in the NOIs suggest.

1. It is unclear how transmission forecasting and planning will occur in the new marketplace

The questions in the NOIs presume that there is a clear framework in place by which

transmission needs are forecast and planned for in the new electric marketplace structure.

However, the outlines and features of this framework are not at all clear.

For example, the NOIs correctly assume that generation and transmission functions are separated, and that transmission is the responsibility of electric companies that own and operate transmission facilities. The NOIs correctly presume that the past practice of requiring electric companies to file long-range forecasts of supply and demand is not particularly helpful in evaluating emerging transmission needs or in reviewing specific transmission facility proposals.

However, the NOIs appear to assume incorrectly that there is a new framework in place under which transmission facilities are effectively forecast and planned. Significantly, the NOIs do not explicitly characterize the roles and responsibilities of various entities (such as the transmission companies, the ISO-BNE, and others) in that framework.

While it is clear that under Federal authority, transmission companies offer transmission service in conjunction with regional transmission service offered by NEPOOL, it is not clear who does what with regard to transmission forecasting and planning in the emerging industry structure. The agencies' NOIs seem to presume that the ISO-BNE and/or the transmission companies will be forecasting transmission needs and publishing information relative to those needs. However, it is Sithe's understanding that ISO-NE is not performing such analyses. And it is not at all clear what electric companies are doing in this regard or what information they will place in the public domain.

Presently, system impact studies are performed by transmission companies in coordination with the ISO-BNE when there is a request by a generator for transmission interconnection. These impact studies and associated facility studies are prepared as part of the

approval process under Section 18.4 of the Restated New England Power Pool Agreement. ISO-BNE initiates this approval process when a NEPOOL participant proposes any new or materially changed plan for additions to, retirements of, or changes in the capacity of any supply and demand-side resources or transmission facilities rated 69 kV or above.

It is much less clear what kinds of studies are typically performed by transmission companies with regard to forecasting location-specific load growth and how such growth might affect emerging transmission congestion or needs for new transmission facilities. What is clear is that ISO-NE is not performing these studies. As part of these NOIs, the agencies should determine whether electric companies, the ISO-BNE, or some other entity will be forecasting load growth and planning for new transmission needs to meet this load growth -- whether such forecasts occur in conjunction with -- or independent of -- changes in supply capacity in the region.

1. The agencies must clarify the role of electric companies in transmission-related forecasting and planning

If electric companies are the entities that are forecasting location-specific load growth and planning to accommodate this growth on the distribution and transmission systems, then the agencies, consistent with their jurisdictional authorities, should require this forecast and planning information to be published and filed on a regular basis. Publication of such location-specific load growth forecasts and related analyses of transmission reliability and adequacy would support the fair and efficient functioning of the generation market. Such filings would provide information not now generally available to market participants as to the places on the system where the addition of generation, demand-side management, or distributed generation might

improve or worsen transmission constraints. This information would not only be valuable to market participants, but also to the DTE and EFSB in fulfilling their statutory purposes with respect to transmission. Among other matters, such information will better enable the DTE to provide a meaningful report to the general court on "the reliability and diversity of electric power." See G.L. c. 164, § 69I. In recommending that the agencies require electric companies to submit meaningful filings, Sithe is not suggesting that the agencies subject such filings to adjudicatory reviews.²

These filings would include studies of system impacts of nodal load growth, but presumably also would include the completed studies performed in conjunction with specific interconnection requests for new and/or retiring generation capacity. If these types of analyses are prepared for transmission planning purposes anyway, it would not be an additional burden on electric companies to prepare them for presentation to the agencies. Further, the companies can prepare the reports in such a way as to protect any commercially sensitive data about load additions and growth.

2. The agencies must also clarify the role of other market participants in transmission-related forecasting and planning

If, as a result of collecting further information, the agencies learn that electric companies are not performing the kinds of periodic location-specific load forecasts and transmission analyses described above, the agencies should use this proceeding to address the critical issue of determining which entity, in fact, is taking on this important responsibility. To determine who is

² Adjudication of electric company forecasts would not help advance the public interest. Rather, experience with agency review of forecasts has shown that these filings are time sensitive and regulatory decisions often are issued long after the information contained in forecast filings has become stale.

carrying out location-specific load forecasting for transmission and distribution analysis and planning purposes, the agencies should explore the roles of other market participants by asking the following types of questions:³

- * What is the role of load-serving entities in forecasting load growth that affects utilization of transmission and distribution facilities?
 - Do load-serving entities forecast their customers' demand and give the results to transmission companies for the purposes of analyzing delivery requirements?
 - If so, what is the framework under which this activity is carried out?
- * Depending upon the role of load-serving entities, what is the role of the electric companies?
 - Do they take the forecast data prepared by load-serving entities, and then use these forecasts to analyze and plan for transmission and distribution needs?
 - Do they forecast their firm customers' distribution and transmission needs *de novo*?
 - Do they analyze emerging transmission constraints or reliability issues arising from load growth, or just those that result from changes in generation resources?
 - Where they serve substations next to another electric company's service territory, do they carry out inter-utility analyses, to understand emerging transmission constraints or reliability concerns, and to jointly plan for transmission needs?
- * What is the role of the ISO-BNE?
 - Does the ISO coordinate inter-utility forecasts of load growth as it might

³ Sithe does not suggest that the answers to all of these questions are unknown. For example, Sithe is aware that ISO-NE alone is not forecasting transmission needs. Nonetheless, in a proceeding such as this, answers to these questions from all market participants will enable the Department and the EFSB to compile a comprehensive record.

affect system operations, reliability and transmission congestion?

- Does the ISO conduct such studies on its own?
 - How frequently?
 - Apart from transmission tariff and capacity information provided through the OASIS system, what information (e.g., planning studies, analyses, reports) does the ISO make available about emerging transmission problems? What topics? How often? In what form?
 - What information does the ISO keep confidential? Is it appropriate for the ISO to keep such information confidential?
- * Are there any relevant roles played by the Northeast Power Coordinating Council or the North American Electric Reliability Council?
- Do they require electric companies to file transmission plans, or analyses of emerging transmission adequacy problems?
 - What standards do they have in place with regard to transmission planning criteria or studies that are relevant to helping address the agencies' concerns as expressed in the NOIs?

Sithe fully recognizes that the agencies lack jurisdiction over some of these entities and have limited jurisdiction over others. Nonetheless, to the extent that the agencies can obtain answers to these questions, it will allow for complete understanding of these novel and complex issues. In turn, these answers will allow the agencies to determine whether and how an alternative process would satisfy the public interest requirement of G.L. c. 164, § 69I.

IV. THE AGENCIES SHOULD SOLICIT INFORMATION FROM MARKET PARTICIPANTS BEFORE DECIDING WHETHER AN ALTERNATIVE PROCESS IS IN THE PUBLIC INTEREST

In inviting parties to comment on whether to rescind 220 C.M.R. §§ 10.00 et seq., and to exempt electric companies from any or all of the provisions of G.L. c. 164, § 69I, the agencies have specifically asked parties to respond to five questions. These five questions must be

answered before the agencies can establish streamlined processes that fit the requirements of a competitive generation market and a regulated monopoly transmission system.

However, as outlined above, the Department and the Siting Board should collect further information from market participants with respect to their responsibilities and expectations concerning transmission forecasting and planning before requiring market participants to answer the agencies' specific questions. At a minimum, electric companies should indicate their understanding of their role and others' roles with respect to: location-specific load forecasting for transmission needs; transmission system impact analysis for new generation additions, for retirements, and for major modifications to generation that affect transmission requirements; studies of facilities needed to correct adverse impacts; and analysis of emerging transmission constraints. In addition, the agencies should request that other parties (such as load-serving entities, the ISOBNE, new generators, and reliability councils) comment on their understanding of their own roles and the roles of others in this area.

The answers to these fundamental questions would enable the parties to more effectively respond to the issues raised in the NOIs. Parties would be able to understand and evaluate transmission companies' and others' planning practices and expectations. For example, knowing the ISOBNE's role, responsibilities and plans for developing and publishing certain transmission analyses will shed light on the agencies' first question (relating to whether the information published by the ISOBNE alone would enable the EFSB and the DTE to meet their statutory obligations). A more comprehensive record also would enable the parties in this case to address and the agencies to determine (1) whether electric companies should be relieved of their requirement to file long-range forecasts and plans; and (2) if so, how some other procedure or

process would be better suited to providing information about location-specific load growth and emerging intra-utility, inter-utility and inter-state transmission needs.

This crucial information also would be useful to enable parties to respond more effectively to the agencies' request for comment on what changes need to be made to Administrative Bulletin 78-2 in order to focus that document on developing transmission needs and to make the agencies aware of emerging inter-utility and inter-state transmission needs. Sithe believes that Section 1 of the Administrative Bulletin 78-2 should be restated along the lines described at Section III.B.2 above: If electric companies are the entities forecasting location-specific load growth and planning to accommodate this growth on the distribution and transmission systems, then, consistent with the agencies' jurisdictional authorities, these companies should be required to file this transmission forecast and planning information with the agencies on a regular basis. Publication of such location-specific load growth forecasts and related analyses of transmission reliability and adequacy would help support the fair and efficient functioning of the generation market.

In recommending that the agencies require electric companies to submit meaningful filings, Sithe is not suggesting that the agencies subject such filings to adjudicatory reviews. Rather, the information presented in these annual filings would assist market participants' location decisions for siting new generation, as well as market participants' ability to evaluate electric companies' plans for facilities that are proposed both to serve load growth and to accommodate interconnection and system reinforcement requirements of new or retired generators.

The agencies should develop streamlined and effective regulatory requirements that

comport with the competitive generation market and the newly unbundled regulated transmission and distribution markets. Because the agencies are considering rescinding regulatory requirements and granting exemptions from any and all provisions of a statute, it is proper for the agencies to compile an adequate record for decision. Moreover, any minor delays associated with gathering additional information in these NOI proceedings will not adversely effect electric companies.⁴ Although an alternative process could be more appropriate than the current processes established under G.L. c. 164, § 69I, Sithe respectfully suggests that it is not possible to know *what* other process is appropriate until the agencies discern the types of forecasting and planning processes that are currently being undertaken by different institutional players in the electric industry in Massachusetts. Moreover, G.L. c. 164, § 69I clearly precludes the DTE from granting exemptions from forecast requirements until such time as the DTE and EFSB determine that an "alternative process is in the public interest." Without obtaining the additional information described by Sithe in these comments, it would be difficult, if not impossible, for the agencies to determine what alternative process is in the public interest.

III. CONCLUSION

For the reasons stated above, Sithe respectfully requests that the Department and the Siting Board solicit additional preliminary information from the parties prior to taking final

⁴ These companies are not currently filing forecasts under Section 69I of Chapter 164 because the DTE has granted waivers from this requirement.

comments on the issues raised in the NOIs. Additionally, Sithe wishes to testify on these matters at the joint public hearing scheduled for September 14, 1998.

Respectfully submitted,

SITHE NEW ENGLAND HOLDINGS,
LLC

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Dated: September 4, 1998